

## REMARKS

Claims 1 – 19 continue to be in the case.

*The Office Action refers to Claim Rejections*

*- 35 USC § 103*

2. Claims 1-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (5,449,079) in view of Jury (5,941,391).

The rejection is respectfully traversed.

Yang discloses the limitations of the claims including a cover (figs. 1-7) comprising a shell (2) spherical projection with cylindrical cavity (200), openings (202), valve head (23), circular plate with triangular edge (annular extending portion of valve 23), gasket (240), pin (231), bonnet (21) with ribs (upwards extending portion of bonnet 21).

Applicant reiterates his arguments relative to the reference Yang made in the response filed on June 9, 2008 on page 10.

Yang excludes a cylindrical stem moveably supported in an opening, a sleeve with flange and an elliptical outline. Jury teaches a cylindrical stem moveably supported in an opening a sleeve with distancing projections/rib thereby creating a vacuum sealed valve construction. Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to modify Yang with the aforementioned structural features in order to provide an alternate vacuum sealed valve construction.

Applicant respectfully submits that the construction of the reference Jury is such different from the present invention that there would be no motivation for a person of ordinary skill in the art to combine the teachings of the references Yang and Jury.

The Jury reference teaches that the air is evacuated through channel 50 of rubber stopper 40, with stopper 40 providing a seal around the opening 36.

The present invention in contrast discloses a removal of the air from the container through the opening **5 in the lid**: the gasket 9 has a shape of flat round washer with an opening.

The Jury reference teaches that the opening in the lid 16 with the rubber plug 40 embedded therein is located in **the upper part** of the neck 32 of the lid 16.

The present invention in contrast discloses that the opening **5 in the lid 1** is located in **the hollow 4 of spherical projection 3**.

The Jury reference teaches that, upon evacuation of the air from within the container, a vacuum results within the container, which causes the plug's exterior tapered portion 70 to mate and engage the stopper's exterior seat portion 52 of channel 50.

The present invention in contrast discloses that a vacuum created inside the container causes pressure on the edge 8 of the plate 7 to the seal 9. The edge 8 of the plate 7 with triangular outline, while the 'blade' of the triangle is directed perpendicularly to the surface of the plate. The seam between the mushroom and the seal is **linear**.

The Jury reference teaches also that the extended downwardly outer part of the plug 68 connects to the extended downwardly outer part of the stopper **44** thus sealing the channel 50. The closure of the valve /Channel 50/ is a closure of **surface - conical surface** of the stopper 70 that cooperates with the conical **surface 52** of the plug 40 and also part 68 of the stopper cooperates 'evenly' with part **44** of the plug 40. The plug 40 is furnished in the form of discs **44, 46**, joined by means of cylindrical element 48, bilaterally including the cover 16.

The present invention in contrast discloses that the mushroom **6** is **loosely** mounted in the opening 5 by means of the sleeve 10 ended with the flange **11** fitted with distancing projections in the form of radial ribs.

The Jury reference teaches that the vacuum seal is released by pulling or tugging the bulbous part 66 of the stopper.

The present invention in contrast discloses that an opening of the valve is done through pressure on the pin *12* of the side wall. The valve head has a pin 12

protruding over the plate 7. Pressing on the pin 12 causes a local detachment of the edge 8 of the plate 7 from the gasket 9. Lever declination of the pin 12 causes a unilateral lifting of the plate 7 from the seals 9.

The Jury reference teaches that the bulbous part 66 of the plug projects over the lid 16 and the upper part of the neck 32 and is vulnerable to an accidental impact that may result in unsealing of the container.

The present invention in contrast discloses that the pin 12 of the valve (same as the whole valve) is located in the hollow 4 of spherical projection 3 and is covered by this projection (projection 3 prevents the container from accidental unsealing).

Regarding the elliptical outline, Yang excludes what would have been obvious to one of ordinary skill in the art at the time of invention, having an elliptical outline pointed towards the inside of the container in order to facilitate design choice and add an aesthetic element to the container cover.

Applicant respectfully submits that the elliptical form of applicant's device contributes to its stability and makes the device easier to handle.

Moreover, a change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. A Change in aesthetic (ornamental) design generally will not support patentability. *In re Seid*, 73 USPQ 431.

Applicant respectfully submits that the additional strength and stability of the elliptical shape is an unexpected result.

Reconsideration of all outstanding rejections is respectfully requested.

All claims 1 to 19 presently submitted are deemed to be in form for allowance and an early notice of allowance is earnestly solicited.

Respectfully submitted,

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